



WESTERN  
AUSTRALIAN  
GOVERNMENT

**Gazette**

1741



**PERTH, FRIDAY, 27 MARCH 1998 No. 67 SPECIAL**

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.45 PM

LAND ADMINISTRATION ACT 1997

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**LAND ADMINISTRATION  
REGULATIONS 1998**

WESTERN AUSTRALIA

**LAND ADMINISTRATION  
REGULATIONS 1998**

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LAND ADMINISTRATION ACT 1997

## **LAND ADMINISTRATION REGULATIONS 1998**

Made by the Governor in Executive Council.

### **PART 1 — PRELIMINARY**

#### **Citation**

**1.** These regulations may be cited as the *Land Administration Regulations 1998*.

#### **Commencement**

**2.** These regulations come into operation on the day fixed under section 2 (1) of the Act.

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**PART 2 — GENERAL**

**Telecommunications network services prescribed as public utility services**

3. (1) The services supplied by a telecommunications network are prescribed for the purposes of the definition of “public utility services” in section 3 (1) of the Act.

(2) In subregulation (1) —

“**telecommunications network**” has the same meaning as in the *Telecommunications Act 1997* of the Commonwealth.

**Conditions of delegation by Minister of powers to convey or transfer fee simple in Crown land**

4. If the Minister delegates under section 9 (1) of the Act a power conferred or duty imposed by the Act to convey or transfer the fee simple in Crown land, the delegation is subject to the conditions that —

- (a) the advice of the Valuer-General as to the market value of the land is obtained, and regard is had to that advice when the price for which the fee simple in the land is to be conveyed or transferred is determined; or
- (b) the fee simple in the land is conveyed or transferred —
  - (i) by public auction, public tender or any other process in which the public is given an opportunity to participate;
  - (ii) by private treaty for a price that is not less than 90% of the price determined, on the advice of the Valuer-General, as the reserve price of the land for a public auction at which the bidding did not reach that reserve price; or
  - (iii) in accordance with a recommendation of an advisory panel appointed by the Minister under section 73 of the Act.

**Procedures to be followed by local government before requesting acquisition of alienated land designated for public purpose**

5. Before requesting the Minister under section 52 (1) (a) of the Act to acquire as Crown land any alienated land designated for a public purpose (“**the subject land**”), a local government —

- (a) must give to the Minister a written description of the proposed future disposition of the subject land after it has been acquired; and

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- (b) must give to the Minister written confirmation that the local government has complied with section 52 (3) of the Act.

**Procedures to be followed by local government before requesting acquisition of private road**

**6.** (1) Before requesting the Minister under section 52 (1) (b) of the Act to acquire as Crown land any private road ("**the subject land**"), a local government —

- (a) must give to the Minister written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require;
- (b) must give to the Minister written reasons as to why the local government proposes to request the Minister to acquire the subject land;
- (c) must give to the Minister and to the persons given notice under section 52 (3) (a) of the Act a sketch plan showing the proposed future disposition of the subject land after it has been acquired;
- (d) must give to the Minister evidence that satisfies the Minister that the local government has taken all reasonable steps to identify the persons who are required to be given notice under section 52 (3) (a) of the Act;
- (e) must give to the Minister —
- (i) copies of any submissions (other than objections given under section 52 (2) (b) of the Act) relating to the proposed request to acquire the subject land that, after complying with the requirements to give notice and advertise under section 52 (3) of the Act, the local government has received; and
- (ii) the local government's comments on those submissions;
- and
- (f) must give to the Minister written confirmation that the local government has complied with section 52 (3) of the Act.

(2) In subregulation (1) (d) —

**"evidence"** includes evidence of searches of electoral rolls, land title records, records kept by the Australian Securities Commission and registers kept under the *Registration of Births, Deaths and Marriages Act 1961* (or any Act that repeals that Act).

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**Procedures to be followed by local government before requesting acquisition of alienated land in a townsite**

7. Before requesting the Minister under section 52 (1) (c) of the Act to acquire as Crown land any alienated land in a townsite that the Minister proposes to abolish (“**the subject land**”), a local government —

- (a) must comply with regulation 6 (1) (a), (b), (d), (e) and (f) as if those paragraphs were set out in this regulation;
- (b) without limiting section 52 (3) of the Act, must advertise within the relevant townsite, in a notice placed on a signpost or otherwise in a manner approved by the Minister, the proposed request to acquire the subject land;
- (c) must give to the Minister a written description of the proposed future disposition of the subject land after it has been acquired; and
- (d) must give written notice that the local government proposes to request the Minister to acquire the subject land to —
  - (i) the Heritage Council of Western Australia established under the *Heritage of Western Australia Act 1990*; and
  - (ii) The National Trust of Australia (W.A.) established under the *National Trust of Australia (W.A.) Act 1964*.

**Preparation and delivery by local government of request to dedicate land as a road**

8. For the purposes of preparing and delivering under section 56 (2) (a) of the Act a request to the Minister to dedicate land as a road, a local government must include with the request —

- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require;
- (b) if an application has been made to the local government under section 56 (1) (b) (ii) of the Act, a copy of the application and details of the rateable value of all the rateable land relevant to the application;
- (c) if the request is made in respect of a private road referred to in section 56 (1) (c) of the Act —
  - (i) written confirmation that the public has had uninterrupted use of the private road for a period of not less than 10 years;

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- (ii) a description of the section or sections of the public who have had that use; and
- (iii) a description of how the private road is constructed;
- (d) copies of any submissions relating to the request that the local government has received, and the local government's comments on those submissions;
- (e) any other information the local government considers relevant to the Minister's consideration of the request; and
- (f) written confirmation that the local government has complied with section 56 (2) of the Act.

**Preparation and delivery by local government of request to close a road permanently**

**9.** For the purposes of preparing and delivering under section 58 (2) of the Act a request to the Minister to close a road permanently, a local government must include with the request —

- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require;
- (b) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed;
- (c) copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58 (3) of the Act, the local government has received, and the local government's comments on those submissions;
- (d) a copy of the relevant notice of motion referred to in paragraph (c);
- (e) any other information the local government considers relevant to the Minister's consideration of the request; and
- (f) written confirmation that the local government has complied with section 58 (2) and (3) of the Act.

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**Prescribed manner of advertising requests to reserve Crown land as mall reserve**

**10.** (1) A local government must advertise the purpose and details of a request to reserve Crown land under section 59 (1) of the Act as a mall reserve —

- (a) in a newspaper circulating in the local government district in which the land is situated; and
- (b) in a notice placed on a signpost on the land or otherwise in a manner approved by the Minister.

(2) A local government must include with the request it sends to the Minister under section 59 (3) of the Act —

- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require;
- (b) a copy of the advertisement as it appeared in the newspaper referred to in subregulation (1) (a);
- (c) a sketch plan describing the extent of the proposed mall reserve;
- (d) any other information the local government considers relevant to the Minister's consideration of the request; and
- (e) written confirmation that the local government has complied with section 59 (2) and (3) of the Act.

**Prescribed manner of advertising requests to cancel mall reserve**

**11.** (1) A management body must advertise the purpose and details of a request to cancel a mall reserve under section 62 (1) of the Act —

- (a) in a newspaper circulating in the local government district in which the mall reserve is situated;
- (b) in a notice placed on a signpost, or otherwise in a prominent position, within the mall reserve; and
- (c) in a notice sent to each holder of an interest granted in respect of the mall reserve of the kind referred to in subregulation (2) (c).

(2) The management body is to include with the request it sends to the Minister under section 59 (3) of the Act (as read with section 62 (2) of the Act) —

- (a) written confirmation that the management body has resolved to make the request, details of the date when the relevant resolution

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was passed and any other information relating to that resolution that the Minister may require;

- (b) a copy of the advertisement as it appeared in the newspaper referred to in subregulation (1) (a);
- (c) written details of any lease, sublease, licence or mortgage that has been granted in respect of the mall reserve;
- (d) any other information the management body considers relevant to the Minister's consideration of the request; and
- (e) written confirmation that the management body has complied with section 59 (2) and (3) of the Act (as read with section 62 (2) of the Act).

**Procedure to be followed by Minister when determining and altering prices of Crown land**

**12.** For the purposes of determining or altering the price or reserve price of any Crown land under section 74 (2) (a) of the Act, the Minister must obtain and have regard to the advice of the Valuer-General as to the market value of the land.

**Prescribed requirements for entering joint ventures to develop and sell Crown land**

**13.** (1) The Minister may enter into a joint venture with another person ("**the other joint venturer**") under section 78 (1) of the Act for the purpose of developing and selling Crown land if the other joint venturer —

- (a) is a local government or a State instrumentality;
- (b) is a person —
  - (i) who is the holder of the freehold in land adjoining the Crown land to be developed and sold by the joint venture; and
  - (ii) whose financial circumstances and professional standing are considered by the Minister to be satisfactory for the purposes of the joint venture;

or

- (c) is determined by public tender or any other process in which the public is given an opportunity to participate.

(2) Before Crown land that is developed by a joint venture entered into by the Minister under section 78 (1) of the Act is sold, the Minister must

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obtain and have regard to the advice of the Valuer-General as to the market value of the land.

**Prescribed conditions to be complied with by applicant to purchase fee simple, or option to purchase fee simple, in Crown land**

**14.** If the Minister grants an application under section 89 (1) of the Act by the holder of a lease, other than a pastoral lease, of any Crown land to purchase —

- (a) the fee simple of the Crown land; or
- (b) an option to purchase that fee simple,

the holder of the lease —

- (c) must comply with all the terms and conditions of the lease, other than any term or condition specified by the Minister in writing;
- (d) must consult the local government, or each local government, within the district of which the whole, or any portion, of the Crown land is situated; and
- (e) must ensure that there is a means of lawful access (whether by road, easement, right of way or otherwise) —
  - (i) to the Crown land; or
  - (ii) if the Crown land is to be amalgamated with other land under section 87 of the Act, to that other land.

**Phasing in of rents for existing pastoral leases**

**15.** (1) If, as a result of being determined as at 1 July 1999 under section 123 (4) of the Act, the annual rent for an existing pastoral lease would be increased by an amount (“**the increased amount of rent**”) that is equal to or greater than the fixed percentage of the annual rent payable in respect of the lease that applied immediately before the appointed day, the increased amount of rent must be phased in by means of 3 equal annual increases in rent, so that the full annual rent as determined under section 123 (4) of the Act is payable as at 1 July 2001.

(2) In subregulation (1) —

“**existing pastoral lease**” has the same meaning as it has in section 143 of the Act;

“**the fixed percentage**” means the percentage fixed by the Minister.

*Land Administration Regulations 1998***Prescribed rate of interest if pastoral lessee fails to pay rent on due date**

**16.** The rate of interest for the purposes of section 125 (4) of the Act is 10% a year, calculated daily.

**Fees**

**17.** (1) The fees set out in Schedule 1 are payable to the chief executive officer in relation to the services provided by the Department that are mentioned in that Schedule.

(2) The Minister may waive —

- (a) the fee payable for a survey of land under item 9 of Schedule 1, if the survey is required in respect of roads through Crown land; or
- (b) a fee payable under any other item of Schedule 1, if the Minister considers that it is in the public interest to do so.

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**PART 3 — SURVEYS**

**Definitions**

**18.** In this Part —

“**authorized survey**” means an authorized survey within the meaning of the *Licensed Surveyors Act 1909*;

“**departmental surveyor**” means a person employed or engaged by the Department to carry out a survey;

“**survey**” means an authorized survey, or any other survey, carried out for the purposes of the Act.

**Notification of problems**

**19.** A departmental surveyor carrying out a survey must give written notice to the chief executive officer of the Department of —

- (a) any doubts about the survey;
- (b) any discrepancies found in existing surveys, data or plans;
- (c) any difficulties encountered while carrying out the survey; and
- (d) any other matters adversely affecting the Crown,

as soon as practicable after they come to the surveyor’s attention.

**Authorized land officer may issue requisitions**

**20.** (1) For the purposes of section 32 of the Act, an authorized land officer may, by written notice given within 2 years after the survey was lodged, require a departmental surveyor to amend, or to provide more information in relation to, a survey.

(2) If a departmental surveyor (“**surveyor at fault**”) does not make the amendment or provide the information within the time specified in the notice the authorized land officer may —

- (a) arrange for another surveyor to make the amendment or provide the information; and
- (b) by written notice require the surveyor at fault to pay the costs of having the amendment made, or the information provided, by the other surveyor.

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(3) If the surveyor at fault does not pay those costs within the time specified in the notice, the authorized land officer may recover the costs as a debt due to the Crown by action in a court of competent jurisdiction.

**Alternative methodology for authorized surveys in special cases**

**21.** (1) An authorized land officer may, by written notice, authorize a departmental surveyor to carry out an authorized survey in a manner different from that required by the *Licensed Surveyors (Guidance of Surveyors) Regulations 1961* if the officer is satisfied that —

- (a) the value of the relevant land does not justify carrying out a survey in the manner required by those regulations;
- (b) the nature of the relevant land makes it impracticable to carry out a survey in the manner required by those regulations; or
- (c) other special circumstances exist that justify carrying out the survey in a manner different from that required by those regulations.

(2) An authorized land officer may vary or revoke an authorization under this regulation at any time by giving written notice to the departmental surveyor to whom the authorization was granted.

**Ownership of survey documents**

**22.** All documents (including surveys, plans, digital information, field books and notes, and sketches) created by a departmental surveyor in the course of carrying out a survey, and all information contained in those documents, are the property of the Crown.

**Inconsistency with *Licensed Surveyors (Guidance of Surveyors) Regulations 1961***

**23.** If there is any inconsistency between these regulations and the *Licensed Surveyors (Guidance of Surveyors) Regulations 1961* in relation to the manner in which a survey is to be carried out, these regulations prevail to the extent of the inconsistency.

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**PART 4 — ADVISORY PANELS**

**Definitions**

**24.** In this Part —

“**member**” means a member of a panel;

“**panel**” means an advisory panel appointed under section 73 of the Act;

“**relevant matter**” means a matter in respect of which a panel has been appointed to advise the Minister.

**Number of members**

**25.** A panel is to consist of 3 members, or any greater number that the Minister thinks fit, one of whom is to be appointed by the Minister as chairperson.

**Remuneration of members**

**26.** A member, other than an officer of the Department, is to be paid the remuneration and travelling and other allowances determined in his or her case by the Minister on the recommendation of the Minister for Public Sector Management.

**Term of office**

**27.** (1) Subject to subregulations (3) and (4), a member holds office for the term specified in the member’s instrument of appointment.

(2) A member’s term of office may be expressed as expiring when the panel to which the member is appointed has finished providing advice to the Minister on all relevant matters.

(3) A member may resign by giving written notice to the Minister.

(4) The Minister may remove a member from a panel if the Minister is satisfied that the member has neglected, or is incapable of properly performing, his or her functions as a member of the panel.

**Member unable to act**

**28.** (1) If a member, other than the chairperson, is unable to act by reason of illness, absence or other cause, the Minister may appoint another person to act temporarily in his or her place and, while acting according to

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the tenor of his or her appointment, that other person is to be taken to be a member.

(2) No act or omission of a person acting in place of a member under subregulation (1) is to be questioned on the ground that the occasion for his or her appointment or acting had not arisen or had ceased.

**Calling of meetings**

**29.** The chairperson of a panel must convene a meeting of the panel —

- (a) when directed by the Minister to do so; and
- (b) at any other times determined by the panel.

**Presiding officer**

**30.** The chairperson of a panel must preside at all meetings of the panel.

**Quorum**

**31.** A quorum for a meeting of a panel is all members of the panel.

**Voting**

**32.** (1) At a meeting of a panel a decision of a majority of members is the decision of the panel.

(2) Subject to subregulation (3), at a meeting of a panel each member has one vote.

(3) If the votes cast on a question are equally divided, the chairperson has a casting vote.

**Minutes**

**33.** A panel must cause accurate minutes to be kept of the proceedings at its meetings.

**Telephone or video meetings**

**34.** A meeting of a panel may be held by telephone, video link-up or other electronic means if each member is able to communicate with every other member instantaneously at all times during the meeting.

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**How panel is to inform itself**

**35.** (1) A panel may inform itself about a relevant matter in any manner it considers appropriate, including —

- (a) accepting oral or written submissions;
- (b) reading documents; and
- (c) holding public hearings under regulation 38.

(2) A panel must take reasonable steps (such as the publication of a public notice) to ensure that persons who may have an interest in a relevant matter are notified that the panel is considering the matter and will accept submissions in relation to it.

(3) If a person notifies the chairperson in writing that he or she wishes to make a submission on a relevant matter, the panel must give the person a reasonable opportunity to do so.

(4) A person must not provide information to a panel that the person knows to be —

- (a) false or misleading in a material particular; or
- (b) likely to deceive in a material way.

Penalty: \$1 000.

**Public hearings**

**36.** (1) A panel may conduct public hearings in order to obtain information in relation to a relevant matter.

(2) A panel must take reasonable steps to publicize a public hearing.

(3) A person must not cause a disturbance during a public hearing.

Penalty: \$500.

(4) The chairperson may cause to be removed from a public hearing any person the panel considers is causing a disturbance during the hearing.

**Panel to determine own procedures**

**37.** Subject to these regulations and any directions of the Minister, the panel may determine its own procedures.

*Land Administration Regulations 1998***Conflict of interest**

- 38.** A member who has a material personal interest in a relevant matter —
- (a) must resign from the panel as soon as possible after the relevant facts have come to the member's knowledge; and
  - (b) must take no further part in the panel's proceedings in relation to that matter.

Penalty: \$1 000.

**Confidentiality**

- 39.** A person who is, or has been, a member must not, directly or indirectly, record, disclose or make use of any information obtained in the course of his or her membership except —

- (a) for the purpose of performing his or her functions under the Act or these regulations;
- (b) as otherwise required or allowed by law; or
- (c) with the written consent of the person to whom the information relates.

Penalty: \$1 000.

*Land Administration Regulations 1998***SCHEDULE 1 — FEES PAYABLE TO CHIEF EXECUTIVE OFFICER**

[Regulation 17]

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1. For preparing a lease or licence or, subject to item 8, any other document prepared for the purposes of the Act . . . . . 60.00
2. For inspecting a lease (of less than 12 months) of Crown land . . . 9.00
3. For copying a lease (of less than 12 months) of Crown land . . . . . 9.00
4. For searching a licence granted under the Act . . . . . 9.00
5. For advertising by the Minister under the Act —
  - (a) minimum fee . . . . . 60.00
  - (b) plus any additional amount by which the cost of advertising is greater than \$60.00 (payable when the cost is known)
6. For certifying a copy of any document prepared for the purposes of the Act . . . . . 60.00
7. For arranging the postal delivery of any material for which a fee is payable under this Schedule —
  - (a) if the material is sent within Australia and is not greater than 50 grams . . . . . 9.00
  - (b) if the material is sent outside Australia or is greater than 50 grams . . . . . 9.00  
plus any additional costs incurred, as assessed by the Minister
8. The fees payable for the following services are those assessed in each case by the Minister, but any fee assessed for a service is not to exceed the cost of providing the service —
  - (a) for a diagram drawn or certified on a transfer, surrender, mortgage, application or other instrument;
  - (b) for the creation and certification of a plan, diagram or other document;
  - (c) for a map or colouring of a map on a copy of a plan, diagram or other document;
  - (d) for a copy of a document, whether by photocopying or otherwise;

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- (e) for the performance, for the purposes of the Act, of any service not mentioned in this Schedule.
- 9. For a survey of land, including preparation of survey plans or diagrams . . . . . the cost of providing the service

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

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